



PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants: Masato Anzai et al.

Examiner: Kimnhung T. Nguyen

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For: **ANGLE ADJUSTING DEVICE FOR A DISPLAY**

APPEAL BRIEF

Appeal from Group 2674

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I. INTRODUCTION

This Appeal is from a Final Office Action mailed on May 7, 2004 (Paper No. 10) (hereinafter, referred to as the “Final Action”) finally rejecting claims 1-7 and 9-13 of the above-identified application, and an Advisory Action mailed on October 13, 2004 (Paper No. 12). Applicants commenced this Appeal by a Notice of Appeal dated November 5, 2004, and hereby submit this Appeal Brief.

II. REAL PARTY IN INTEREST

The real party in interest for the above-identified application is International Business Machines (IBM) Corporation, the assignee of the entire right, title and interest in and to the subject application by virtue of an assignment of recorded in the U.S. Patent and Trademark Office at reel 012029 frame 0493.

III. RELATED APPEALS AND INTERFERENCES

There are no Appeals or Interferences known to Applicants, Applicants’ representatives or the Assignee, which would directly affect or be indirectly affected by or have a bearing on the Board’s decision in the pending Appeal.

IV. STATUS OF CLAIMS

Claims 1-7 and 9-13 are pending, stand rejected and are under appeal. Claims 8 and 14 have been canceled. The claims on appeal are set forth in the attached Appendix.

Claims 1, 3, 7, 10 and 13 are independent claims. Claim 2 directly depends from claim 1, claims 4-6 directly depend from claim 3, claim 9 directly depends from claim 7 and claims 11-12 directly depend from claim 10.

V. STATUS OF AMENDMENTS

A Response to the Final Action was mailed on June 18, 2004. The Response did not include any amendments to the claims. Accordingly, no after final claim amendments were filed in this case subsequent to the Final Action.

VI. SUMMARY OF THE CLAIMED SUBJECT MATTER

In general, the claimed subject matter relates to a display device including a pedestal main body and an arm portion that can be positioned in the same plane to unify the pedestal main body with the arm portion so that the unified pedestal main body and arm portion cover an image display portion and to an angle adjusting device including a stopper and an arm portion, wherein rotation of the stopper is caused by rotation of the arm portion.

A. Embodiments Of Claims 1, 3 and 7

Claim 1 recites, *inter alia*, a display device comprising a pedestal main body and an arm portion that can be positioned in the same plane for unifying the pedestal main body with the arm portion to cover an image display portion.

Claim 3 recites, *inter alia*, a display device comprising a planar protective portion opposed to an image display portion to cover the image display portion, wherein the planar protective portion includes a pedestal and arm portion that can be unified to constitute one plane.

Claim 7 recites, *inter alia*, a display device comprising an arm and pedestal that are unified with each other in the same plane for covering an image display portion.

For purposes of illustration, the embodiments of claim 1, 3 and 7 will be discussed hereafter with reference to the embodiment depicted in Figures 3(a) and 3(b) and the descriptions in Applicants' specification at page 8, lines 3-19 (¶ 0037), page 10, lines 24-28 (¶ 0042) and page 12, lines 8-17 (¶ 0055). It is to be understood that the following description of the claimed embodiments and reference to the drawings are for illustrative purposes to provide some context for the claimed embodiments, but nothing herein shall be construed as placing any limitation on the claimed embodiments.

More specifically, by way of example, Figures 3(a) and 3(b) show an arm portion 13 positioned in the same plane as a pedestal main body 12 to cover an image display portion D. Further, by way of example, referring Figure 13, the specification states that "it is desirable that a portion of the pedestal 51 is made to function as the arm 52". See page 8, lines 14-15 (¶ 0037). Accordingly, the display device "is constructed so that the arm comprising the supporting portion and the pedestal occupy the same plane". See page 10, lines 24-25 (¶ 0042); see also Figs 3(a) and 3(b) and page 12, lines 11-13 (¶ 0055) (stating that the arm 13 is unified with the pedestal main body 12 to constitute the same plane and perform a protective function for the image display portion D).

B. Embodiment Of Claim 10

Claim 10 recites, *inter alia*, an angle adjusting device comprising a stopper, which rotates by following the rotation of an arm and includes an engaging surface to engage the arm, wherein the engaging surface includes a plurality of areas for engaging an engaging portion of the arm to fix the arm at a plurality of angles with respect to a pedestal.

For purposes of illustration, the embodiment of claim 10 will be discussed hereafter with reference to the embodiment depicted in Figures 5, 6(b), 8(a), (b), 9 and 11 and the descriptions in Applicants' specification at page 14, lines 7-13 and lines 20-25 (¶ 0067 and ¶0069), page 15, lines 16-21 (¶ 0073), page 16, lines 6-17 (¶ 0077),¹ page 17, lines 6-18 (¶ 0082 and ¶ 0083). It is to be understood that the following description of the claimed embodiment and reference to the drawings are for illustrative purposes to provide some context for the claimed embodiment, but nothing herein shall be construed as placing any limitation on the claimed embodiment.

More specifically, by way of example, Figures 5 and 8 show an arm 24 including a sliding lever 25 installed thereon. The sliding lever 25 includes an engaging pawl 25a that engages concave and convex portions 29a of wing shaped stoppers 29. See page 14, lines 7-9 and lines 24-25 (¶ 0067 and ¶0069). Referring to Figures 5, 6(b) and 11, the arm 24 is rotated in the direction of the arrow and the stoppers 29 follow the rotation of the arm 24, rotating around a rotation axis 31. See page 15, lines 18-21 (¶ 0073). Referring to Fig. 8(b), the arm 24 can be rotated when engagement between the concave and convex portions 29a and the engaging pawl 25a is released. Referring to Figs. 8(a) and 9, the arm 24 can be set at a specific angle when the convex and concave portions 29a and the engaging pawl 25a are engaged. See page 16, lines 8-14 (¶ 0077).

C. Embodiment Of Claim 13

Claim 13 recites, *inter alia*, an angle adjusting device comprising a first member that is rotatably arranged around a first rotation axis, and a second member that is rotatably arranged around

¹ Note that the after ¶ 0076 in the specification and in U.S. Patent Application Publication No. US 2001/0055196, which is the published version of U.S. Application Serial No. 09/681,914 presently under appeal, the paragraph numbers in the published version differ from the paragraph numbers in the specification.

a second rotation axis, wherein rotation of the second member around the second rotation axis is caused by rotation of the first member around the first rotation axis.

For purposes of illustration, the embodiment of claim 13 will be discussed hereafter with reference to the embodiment depicted in Figures 5, 6(b) and 11 and the descriptions in Applicants' specification at page 14, lines 15-19 (¶ 0068), page 15, lines 16-21 (¶ 0073), page 17, lines 6-18 (¶ 0082 and ¶ 0083). It is to be understood that the following description of the claimed embodiment and references to the drawings are for illustrative purposes to provide some context for the claimed embodiment, but nothing herein shall be construed as placing any limitation on the claimed embodiment.

More specifically, by way of example, Figure 5 shows an arm 24 (e.g., first member) that rotates around a holding axis 24a, wherein the holding axis acts as the rotation axis (e.g., first rotation axis). See page 14, lines 15-19 (¶ 0068). Referring to Figures 5, 6(b) and 11, the arm 24 is rotated in the direction of the arrow and the stoppers 29 (e.g., second member) follow the rotation of the arm 24, rotating around a rotation axis 31 (e.g., second rotation axis). See page 15, lines 18-21 (¶ 0073).

VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- (1) Claims 1-3, 7 and 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,430,038 ("Helot").
- (2) Claims 10-11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,266,241 ("Van Brocklin").
- (3) Claim 13 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent

No. 6,498,721 ("Kim").

(4) Claims 4 and 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Helot.

(5) Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Helot in view of U.S. Patent No. 6,493,216 ("Lin").

(6) Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Van Brocklin.

VIII. ARGUMENT

A. Rejections Under 35 U.S.C. § 102

Appellants respectfully submit that claims 1-3, 7, 9-11 and 13 rejected under 35 U.S.C. Section 102, are not anticipated by the cited references.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); M.P.E.P. § 2131. "[A]bsence from the reference of any claimed element negates anticipation." Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 1571, 230 U.S.P.Q. 81, 84 (Fed. Cir. 1986).

Appellants respectfully submit that Helot does not expressly or inherently disclose a pedestal main body and an arm portion that can be positioned in the same plane, as recited in independent claim 1, 3 and 7. Indeed, Helot teaches away from unifying the pedestal main body and the arm

portion in the same plane and fails to disclose a unified pedestal and arm portion which cover an image display portion.

In addition, Appellants respectfully submit that neither Van Brocklin nor Kim disclose the angle adjusting devices having the rotation characteristics recited in independent claims 10 and 13.

1. **Rejection of claims 1-3, 7 and 9 under
35 U.S.C. § 102(e) as being anticipated by Helot**

a. *Construction of the phrases “same plane” or “one plane” and “unifying” or “unified”*

As stated by the Federal Circuit in Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc., 334 F.3d 1294, 1298, 67 U.S.P.Q.2d 1132, 1136 (Fed. Cir. 2003), “[i]n the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art.” See also M.P.E.P. § 2111.01 (Rev. 2, May 2004). The ordinary meaning of “unify” is “to make into a unit or a coherent whole” and the ordinary meaning of “plane” is “a flat or level surface”, such that “a straight line joining two of its points lies wholly in the surface”. See Merriam-Webster Online at <http://www.m-w.com>.

The phrases “same plane” or “one plane” and “unifying” or “unified” as used in claims 1-3, 7 and 9 should be construed in accordance with their ordinary meanings. The ordinary meanings are supported by the specification for the instant application, which states that “it is desirable that a portion of the pedestal 51 is made to function as the arm 52” and that “the pedestal 11 is made up of the pedestal main body 12 and the arm 13”. See page 8, lines 14-15 (¶ 0037) and page 13, lines 13-14 (¶ 0061); see also Figs 3(a) and 3(b) and page 12, lines 11-13 (¶ 0055) (stating that the arm 13 is unified with the pedestal main body 12 to constitute the same plane and perform a protective

function of the image display portion).

b. Helot does not disclose a pedestal and an arm portion unified in the same or one plane

In rejecting claims 1-3, 7 and 9 under 35 U.S.C. § 102(e), the Examiner incorrectly maintains that Helot discloses a pedestal main body and an arm portion that can be positioned in the same plane for unifying the pedestal main body with the arm portion to cover an image display portion.

Helot fails to show an arm that is unified with a pedestal in the same plane. Indeed, as shown in Figs. 2, 4 and 5, Helot shows first and second arm members 42 and 52 which rest on the back of a display 28. The display 28 is folded to rest on top of a base 22, not as part of the base and, consequently, is never unified with the base 22 in the same plane. As a result, the arm members 42 and 52, which rest on the back of the display 28, are also never unified with the base 22 in the same plane.

Moreover, the design disclosed in Helot renders it impossible for the first and second arm members 42 and 52 to be unified with the base 22. For example, the pedestal 11 shown in Figs. 2(a) and 2(b) of Applicants' disclosure, includes a U-shaped main body portion 12, which includes open space for the arm portion 13. Unlike the pedestal 11, the base 22 shown in Helot is a solid piece, with no open space for receiving arm members 42 and 52. Therefore, it is impossible for arm members 42 and 52 to be unified with the base 22 in the same plane.

Furthermore, by disclosing arm members 42 and 52, which rest on the back of a display 28 and not as part of a base 22, Helot teaches away from an arm portion that is unified with a pedestal main body.

Accordingly, for at least the reason that Helot does not disclose a pedestal and an arm portion unified in the same or one plane, independent claims 1, 3 and 7 are not anticipated by Helot.

c. Helot does not disclose a unified pedestal and arm portion which cover an image display portion

In contrast to the Examiner's assertion, Helot fails to disclose unified pedestal and arm portions which cover an image display portion, as recited in claims 1, 3 and 7. As shown in Figs. 2, 4 and 5 of Helot, the arm members 42 and 52 are positioned on a back of the display 28 and do not cover the display 28. However, as shown in Figs. 3(a) and 3(b) of Applicants' disclosure, the pedestal main body 12 and arm portion 13 are unified to cover the image display portion D. See page 12, lines 11-13 (¶ 0055) (stating that the arm 13 is unified with the pedestal main body 12 to constitute the same plane and perform a protective function for the image display portion D). Unlike the embodiments recited in claims 1, 3 and 7, the arm members 42 and 52 of Helot rest on the back of the display 28 and cannot be unified with the base 22 to cover the display 28.

Accordingly, for at least the reason that Helot does not disclose a unified pedestal and arm portion which cover an image display portion, independent claims 1, 3 and 7 are not anticipated by Helot.

Appellants note that claim 2 depends from claim 1 and claim 9 depends from claim 7 which, for the reasons stated hereinabove, are submitted not to be anticipated by the cited reference. For at least those very same reasons, claims 2 and 9 are also submitted not to be anticipated by the cited reference.

Therefore, Appellants respectfully request that the Board reverse the Examiner's rejection of claims 1-3, 7 and 9 under 35 U.S.C. § 102(e).

2. **Rejection of claims 10-11 under
35 U.S.C. § 102(e) as being anticipated by Van Brocklin**

a. *Van Brocklin does not disclose the rotating stopper that includes a plurality of areas for engaging an arm*

Relying on Fig. 1C of Van Brocklin, the Examiner states that the stops 110 and 116 respectively anticipate the stopper and the plurality of areas recited in claim 10. See Final Action at 4. In reaching this conclusion, the Examiner makes clear that the Examiner fundamentally misunderstands the claim language and/or the teachings of the cited reference.

In Fig. 1C, Van Brocklin shows a stand 50' including stops 116 and a member 112 preferably molded to a stop 110 that fits into the stops 116 to adjust the height of a display 40. The stops 116 disclosed in Van Brocklin are not positioned on the stop 110, but instead are positioned on the stand 50'. The stand 50' does not follow rotation of the member 112. In stark contrast, the plurality of areas for engaging the arm recited in claim 10 (e.g., convex and concave portions 29a) are positioned on the stopper 29, which rotates by following the rotation of the arm 24. See Figs. 6(b), 8(a), (b) and 11. Accordingly, by disclosing stops 116 on the stand 50', Van Brocklin teaches away from the stopper which both follows the rotation of the arm and includes a plurality areas for engaging the arm.

Appellants submit that regardless of whether the stop 110 or the stand 50' is analogized to the stopper 29, Van Brocklin still does not anticipate claim 10. If the stand 50', which includes the stops 116, is analogized to the stopper 29, Van Brocklin clearly does not anticipate claim 10 since the stand 50' does not follow rotation of the member 112. The Examiner apparently analogizes the stop 110 to the stopper 29. See Final Action at 4. However, the stop 110 does not include a plurality of areas for engaging an arm. Indeed, the stop 110 is mere extension of member 112, preferably

molded thereto. See col. 3, line 57; Fig 1C. Therefore, Van Brocklin fails to anticipate claim 10 under both lines of reasoning.

As such, Van Brocklin does not disclose the stopper including a plurality of areas for engaging an arm that rotates by following rotation of the arm. For at least this reason, Van Brocklin does not anticipate claim 10.

b. Neither the stop 110 nor the stand 50' are released from the member 112 when the member 112 moves

The Examiner maintains that Van Brocklin discloses the feature that an engagement of said arm with said stopper is released while said arm rotates, as recited in claim 11. See Final Action at 4. The Examiner does not state any basis for this conclusion.

Assuming the Examiner is analogizing the stop 110 to the stopper recited in claim 11, Van Brocklin does not anticipate claim 11 under this line of reasoning. The stop 110 is described in Van Brocklin as being “preferably molded to second member 112”. See col. 3, line 57. Indeed, the stop 110 is shown in Fig. 1C as a mere extension of member 112, whereby while moving between stops 116, the stop 110 does not become detached from the member 112.

If the stand 50' is analogized to the stopper recited in claim 11, Van Brocklin still does not anticipate claim 11. When moving between stops 116, the member 112 remains engaged with the stand 50'. The stop 110 does not disengage from the stand 50', but instead remains engaged with the stand 50' in the channel above the stops 116. See Fig. 1C.

Therefore, since the member 112 remains engaged with the stop 110 and the stand 50' upon movement of the member 112, Van Brocklin does not disclose the feature that an engagement of said arm with said stopper is released while said arm rotates, as recited in claim 11.

Further, Appellants note that claim 11 depends from claim 10 which, for the reasons stated hereinabove, is submitted not to be anticipated by the cited reference. For at least those very same reasons, claim 11 is also submitted not to be anticipated by the cited reference.

As such, Appellants respectfully submit that embodiments of the invention as recited in claims 10 and 11 are not anticipated by Van Brocklin. These configurations are neither expressly nor inherently disclosed or suggested by the cited reference.

Therefore, Appellants respectfully request that the Board reverse the Examiner's rejection of claims 10-11 under 35 U.S.C. § 102(e).

**3. Rejection of claim 13 under
35 U.S.C. § 102(e) as being anticipated by Kim**

Kim does not disclose an angle adjusting device, wherein rotation of a member around a given rotation axis is caused by rotation of another member around another rotation axis.

In rejecting claim 13, the Examiner states that Kim discloses a first member and a second member, wherein rotation of the second member around a second axis is caused by rotation of the first member around a first axis. The Examiner maintains that Kim shows a first member 26 rotating around an axis 13 to cause rotation of a second member 12 around a second axis 23. See Final Action at 4-5.

Kim shows a cover 12 which can pivot about a rotatable joint 23 around a vertical axis and an auxiliary display 26 which pivots around a horizontal axis. However, Kim does not disclose that rotation of the auxiliary display 26 around the horizontal axis causes rotation of the cover 12 around the vertical axis. Indeed, Kim does not show any physical relationship between the auxiliary display and the cover that would result in rotation of the auxiliary display 26 causing rotation of the cover 12

or vice versa. As shown in Figs. 3 and 5 of Kim, a side of the auxiliary display 26 is dislodged from the cover 12 so that the auxiliary display 26 can be rotated downward to a viewing position. Such rotation, however, does not result in any rotation of the cover 12 around the vertical axis.

Unlike the embodiment recited in claim 13, there is simply no linkage or physical interaction between the cover 12 and the auxiliary display 26 that would result in the auxiliary display 26 causing rotation of the cover 12 or vice versa. In stark contrast, as shown in Fig. 11 of Applicants' disclosure, for example, a portion of the second member 29 is positioned to contact the first member 24, such that rotation of the first member 24 causes the second member 29 to also rotate.

Therefore, Appellants respectfully submit that claim 13 is not anticipated by Kim for at least the reason that Kim does not disclose or suggest a second member whose rotation is caused by the rotation of a first member, as recited in claim 13.

As such, Appellants respectfully request that the Board reverse the Examiner's rejection of claim 13 under 35 U.S.C. § 102(e).

B. Rejections Under 35 U.S.C. § 103

1. Rejection of claims 4 and 5 under 35 U.S.C. §103(a) as being unpatentable over Helot

Appellants respectfully submit that claim 3 is patentable over Helot and, for at least the reason that claims 4 and 5 depend from claim 3, claims 4 and 5 are also submitted to be patentable over Helot.

As stated and argued above, referring to Figs. 3(a) and 3(b) for example, Appellants respectfully submit that Helot fails to teach or suggest a planar protective portion 11 including a pedestal 12 and arm portion 13 that can be unified to constitute one plane and cover an image display

portion D, as recited in independent claim 3. Helot fails to show an arm 13 that is unified with a pedestal 12 in the same plane. Instead, Helot shows arm members 42 and 52 which rest on the back of a display 28, which is not unified with the base 22.

In addition, as stated above, Helot fails to disclose a unified pedestal 12 and arm portion 13 which are opposed to an image display portion D to cover the image display portion, as recited in claim 3. The arm members 42 and 52 of Helot are positioned on a back of the display 28 and do not oppose or cover the display 28.

Therefore, Appellants respectfully submit that the embodiment of the invention as defined in amended claim 3 is patentable over Helot. For at least the reason that claims 4 and 5 depend from claim 3, claims 4 and 5 are also submitted to be patentably distinct over the cited reference.

As such, Appellants request that the Board reverse the Examiner's rejection of claims 4 and 5 under 35 U.S.C. §103(a).

**2. Rejection of claim 6 under 35 U.S.C. §103(a)
as being unpatentable over Helot in view Lin**

*a. Claim 6 is patentable over Helot in view of Lin
at least by virtue of its dependency from claim 3*

Appellants respectfully submit that claim 3 is patentable over Helot in view of Lin and, for at least the reason that claim 6 depends from claim 3, claim 6 is also submitted to be patentable over Helot in view of Lin.

As stated and argued above, Appellants respectfully submit that Helot fails to teach or suggest a planar protective portion including a pedestal and arm portion that can be unified to constitute one plane and cover an image display portion, as recited in independent claim 3. In addition, Lin also fails to disclose the first and second sections capable of being unified to constitute

one plane to cover an image display portion.

Therefore, Appellants respectfully submit that the embodiment of the invention as defined in amended claim 3 is patentable over Helot in view of Lin. For at least the reason that claim 6 depends from claim 3, claim 6 is also submitted to be patentably distinct over the cited references.

b. Claim 6 is patentable in its own right over Helot in view of Lin

1) Lin fails to disclose the protective portion which functions as a pedestal

The Examiner states that Helot fails to disclose the elements of claim 6. Specifically, the Examiner states that Helot does not disclose a planar protective portion that functions as a pedestal by rotating for 270 degrees or more from the state in which the planar protective portion covers the image display portion. The Examiner relies on Lin to cure this deficiency in Helot. See Final Action at 6. Appellants submit that the Examiner's reliance on Lin is misplaced.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Lin does not disclose a planar protective portion that functions as a pedestal by rotating for 270 degrees or more from the state in which the planar protective portion covers the image display portion. Referring to Figs. 7 and 8 of Lin, the liquid crystal display ("LCD") 38 is capable of being rotated within 360 degrees from a position in which it opposes a top face of a machine body 32. When the LCD 38 is rotated, for example 270 degrees or more, the machine body 32 does not function as a pedestal. Indeed, the machine body 32 is vertically inserted into a recession 64 of a base 62 so that the LCD 38 is hung from the machine body 32. See Lin col. 2, lines 45-50. Therefore the machine body does not function as a pedestal.

Further, the machine body 32 is typical of a standard base of a notebook computer, including a keyboard 66 on the top face thereof. Accordingly, the machine body 32 is not capable of functioning as a pedestal since, upon rotation of 270 degrees or more, the top face of the machine body would be face down on a surface on which it lies, rendering the keyboard 66 inaccessible. Therefore, referring to Figs. 3(a) and 3(b), for example, Lin does not disclose the first section 12 of the planar protective portion 11, which rotates 270 degrees or more to function as pedestal 12, as recited in claim 6. Indeed, Lin teaches away from same by requiring a base 62 and illustrating a configuration that would render the keyboard 66 inaccessible upon such rotation.

Accordingly, Appellants respectfully submit that claim 6 is patentable over Helot in view of Lin for at least the reason that Lin fails to disclose a planar protective portion that functions as a pedestal by rotating for 270 degrees or more from the state in which the planar protective portion covers the image display portion.

2) *Helot cannot be modified to include a base that rotates 270 degrees or more to function as a pedestal*

The Examiner incorrectly maintains that it would have been obvious to modify Helot to incorporate a base which rotates 270 degrees or more so as to function as a pedestal. Indeed, such a modification would render the invention in Helot unsatisfactory for its intended purpose and would require a substantial redesign of same.

If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); see MPEP § 2143.01. Further, if the proposed modification or combination of the prior art would change the principle of

operation of the prior art invention being modified, such that the “suggested combination of references would require a substantial reconstruction and redesign of the elements shown in the primary reference”, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. In re Ratti, 270 F.2d 810, 813, 123 USPQ 349, 352 (CCPA 1959); see MPEP § 2143.01.

Like the machine body 32 in Lin, Helot includes a base 22 typical of a standard base of a notebook computer, including a keyboard 21 on the top face thereof. See Fig. 1A. Accordingly, if Helot were modified to include the base 22 which rotates 270 degrees or more to function as a pedestal, the base 22 would lie face down on a surface, rendering the keyboard 21 inaccessible and, therefore, “unsatisfactory for its intended purpose.” Further, such rotation would result in the base 22 being behind the display 28 and the arm members 42 and 52 and would likely cause the Helot device to be unstable and to tip over such that it would be unusable.

Accordingly, Appellants respectfully submit that claim 6 is patentable over Helot in view of Lin for at least the reason that such a modification to Helot would change the principle of operation of the invention disclosed in Helot and render it unsatisfactory for its intended purpose.

For the foregoing reasons, Appellants request that the Board reverse the Examiner’s rejection of claim 6 under 35 U.S.C. §103(a).

3. Rejection of claim 12 under 35 U.S.C. §103(a) as being unpatentable over Van Brocklin

a. Claim 12 is patentable over Van Brocklin at least by virtue of its dependency from claim 10

Appellants respectfully submit that claim 10 is patentable over Van Brocklin and, for at least the reason that claim 12 depends from claim 10, claim 12 is also submitted to be patentable over Van

Brocklin.

As stated and argued above, Van Brocklin fails to disclose a stopper that rotates by following rotation of an arm and also includes a plurality of areas for engaging the arm, as recited in claim 10.

Therefore, it is respectfully submitted that the cited reference does not disclose or suggest the stopper, as defined in claim 10. It is respectfully submitted that it would not have been obvious to modify Van Brocklin to develop same.

Appellants respectfully submit that the embodiment of the invention as defined in claim 10 is patentable over Van Brocklin. For at least the reason that claim 12 depends from claim 10, claim 12 is also submitted to be patentably distinct over the cited reference.

b. Claim 12 is patentable over Van Brocklin its own right because the Examiner used hindsight reasoning to conclude that it would have been obvious to modify Van Brocklin to include an engaging surface in the shape of a circular arc

The Examiner maintains that it would have been obvious to modify Van Brocklin to include an engaging surface of the stopper in the shape of a circular arc. See Final Action at 7. However, the Examiner provides no valid reason for this conclusion. Accordingly, Appellants maintain that the Examiner improperly relied on hindsight knowledge gained from Applicants' disclosure to conclude that an engaging surface in the shape of a circular arc is an obvious modification.

The use of hindsight knowledge derived from the Applicants' disclosure to support an obviousness rejection under 35 U.S.C. § 103 is impermissible. See W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Referring to Figs. 8(a) and 8(b), for example, none of the cited references disclose or suggest

stoppers, such as the stoppers 29 including the engaging surfaces having the convex and concave areas 29a, arranged in a circular arc. Instead, the Examiner improperly relied on Applicants' disclosure to conclude that the use of a circular arc is an obvious modification.

Accordingly, Appellants respectfully submit that claim 12 is patentable over Van Brocklin for at least the reason that the Examiner improperly relied on hindsight knowledge gleaned from Applicants' disclosure to conclude that an engaging surface in the shape of a circular arc is an obvious modification.

For the foregoing reasons, Appellants request that the Board reverse the Examiner's rejection of claim 12 under 35 U.S.C. §103(a).

C. CONCLUSION

Accordingly, for at least the reasons set forth above, claims 1-3, 7 and 9 are not anticipated by Helot, claims 10-11 are not anticipated by Van Brocklin, claim 13 is not anticipated by Kim, claims 4-5 are patentable and nonobvious over Helot, claim 6 is patentable and nonobvious over the combination of Helot and Lin, and claim 12 is patentable and nonobvious over Van Brocklin.

Therefore, it is respectfully requested that the Board reverse all claim rejections under 35 U.S.C. §§ 102(e) and 103(a).

Respectfully submitted,

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CLAIMS APPENDIX

1. A display device comprising:

a pedestal having a planar pedestal main body and a planar arm portion that is arranged in a standing manner at a specified angle to said pedestal main body; and
a display portion being installed swingably to said arm and having an image display portion,

wherein the swinging angle of said display portion can be optimally set when the center of gravity of said display portion is within a projection surface area of said pedestal, and
wherein said pedestal main body and said arm portion can be positioned in the same plane for unifying said pedestal main body with said arm portion to cover said image display portion.

2. The display device according to claim 1, wherein said pedestal, when said pedestal main body and said arm portion are in the same plane, includes the approximate same surface area as said display portion.

3. A display device comprising:

a display portion having an image display portion for displaying an image based on inputted data, and
a planar protective portion rotatably installed to said display portion around a peripheral portion thereof as a rotation axis and parallelly opposed to said display portion to cover said image display portion,

wherein a first section of said planar protective portion opposing said display portion functions as a pedestal for supporting said display portion,

wherein a second section of said planar protective portion opposing said display portion includes an arm connected between said first section and said display portion and capable of being arranged at an angle with respect to the first section for fixing the display portion in a desired position, and

wherein the first section and the second section can be unified to constitute one plane.

4. The display device according to claim 3, wherein the thickness of said planar protective portion is thinner than the thickness of said display portion.
5. The display device according to claim 3, wherein the weight of said planar protective portion is lighter than the weight of said display portion.
6. The display device according to claim 3, wherein the first section of said planar protective portion functions as the pedestal by rotating for 270 degrees or more from the state in which said planar protective portion covers said image display portion by parallelly opposing said display portion.
7. A display device comprising:
 - a display portion having an image display portion for displaying an image based on inputted data, and

a supporting portion for supporting said display portion in a manner that a supporting angle is adjustable,
wherein said supporting portion consists of an arm to which the display portion is rotatably installed and a pedestal to which the arm is rotatably installed, and said arm and said pedestal are capable of being arranged so as to be unified with each other in the same plane, and wherein, when said arm and said pedestal are unified with each other in the same plane, said arm and said pedestal cover said image display portion.

8. (canceled)
9. The display device according to claim 7, wherein the surface area of said supporting portion when said arm and said pedestal are unified with each other in the same plane is greater than or equal to the surface area of said image display portion.
10. An angle adjusting device comprising:
 - a pedestal that becomes a reference of the angle adjustment,
 - an arm that is provided for said pedestal so as to be rotatable in a specified angle range and has an engaging portion, and
 - a stopper, which performs a rotation action by following the rotation action of said arm and that includes an engaging surface to engage said arm, wherein said engaging surface includes a plurality of areas for engaging said engaging portion to fix the arm at a plurality of angles with respect to the pedestal.

11. The angle adjusting device according to claim 10, wherein an engagement of said arm with said stopper is released while said arm rotates.
12. The angle adjusting device according to claim 10, wherein the engaging surface of said stopper is made in the shape of a circular arc, and the engaging portion of said arm moves along the circular arc engaging surface of said stopper.
13. An angle adjusting device in which a second member supports a first member at an optimum angle, comprising:
 - a pedestal that becomes a reference of the angle adjustment,
 - said first member that is rotatably arranged around a first rotation axis provided on the pedestal, and
 - said second member that is rotatably arranged around a second rotation axis provided on the pedestal so as to cross said first rotation axis and a portion of said second member is positioned above said first member, wherein rotation of said second member around the second rotation axis is caused by rotation of said first member around said first rotation axis.
14. (canceled)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT: Masato Anzai et al. EXAMINER: Kimnhung T. Nguyen
SERIAL NO.: 09/681,914 GROUP ART UNIT: 2674
FILED: June 26, 2001 Docket: JP920000178US1 (8728-662)
FOR: ANGLE ADJUSTING DEVICE FOR A DISPLAY

Mail Stop: Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Sir:

Enclosed please find APPELLANTS' APPEAL BRIEF.

The amount of \$500.00 is hereby authorized to be charged Deposit Account No. 50-0510/IBM (Yorktown Heights). Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. § 1.16 and/or 1.17, at any time during the pendency of this application, or credit any overpayment of such fee(s), to Deposit Account No. 50-0510/IBM (Yorktown Heights).

Respectfully submitted,



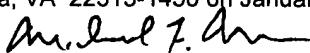
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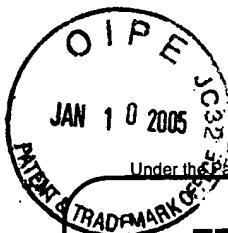
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Dated: January 7, 2005


Michael F. Morano



JAN 10 2005

PTO/SB/21 (09-04)

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/681,914
Filing Date	June 26, 2001
First Named Inventor	Masato Anzai
Art Unit	2674
Examiner Name	Kimnhung T. Nguyen
Attorney Docket Number	JP920000178US1 (8728-662)

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
<input type="checkbox"/> Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	F. Chau & Associates, LLC		
Signature			
Printed name	Michael F. Morano		
Date	January 7, 2005	Reg. No.	44,952

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Typed or printed name	Michael F. Morano	Date	January 7, 2005

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEET TRANSMITTAL

For FY 2005

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 500.00)
Complete if Known

Application Number	09/681,914
Filing Date	June 26, 2001
First Named Inventor	Masato Anzai
Examiner Name	Kimnhung T. Nguyen
Art Unit	2674
Attorney Docket No.	JP920000178US1 (8728-662)

METHOD OF PAYMENT (check all that apply)
 Check Credit Card Money Order None Other (please identify): _____

 Deposit Account Deposit Account Number: 50-0510/IBM Deposit Account Name: IBM (Yorktown Heights)

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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FEES CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEESFee Description

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

Multiple dependent claims

Total Claims	Extra Claims		Fee Paid (\$)	Multiple Dependent Claims		Small Entity Fee (\$)	Fee (\$)
	Fee (\$)	Small Entity Fee (\$)		Fee (\$)	Small Entity Fee (\$)		
- 20 or HP =	0	x 50.00	= 0	360.00	0	50	25

HP = highest number of total claims paid for, if greater than 20

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP =	0	x 200.00	= 0

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	0	/ 50 = (round up to a whole number) x 250.00 = 0		

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Appeal Brief Fee

Fees Paid (\$)

0

500.00

SUBMITTED BY

Signature	<i>Michael F. Morano</i>	Registration No. (Attorney/Agent) 44,952	Telephone 516-692-8888
Name (Print/Type)	Michael F. Morano	Date January 7, 2005	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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